

Part 3

Process for Transferring a Retail License

32B-8a-302 Application -- Approval process.

- (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall file a transfer application with the department that includes:
 - (a) an application in the form provided by the department;
 - (b) a statement as to whether the consideration, if any, to be paid to the transferor includes payment for transfer of the retail license;
 - (c) a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and
 - (d)
 - (i) an application fee of \$300; and
 - (ii) a transfer fee determined in accordance with Section 32B-8a-303.
- (2) If the intended transfer of a retail license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Public Notice Website created in Section 63F-1-701 that states the following:
 - (a) the name of the transferor;
 - (b) the name and address of the business currently associated with the retail license;
 - (c) instructions for filing a claim with the escrow holder; and
 - (d) the projected date that the commission may consider the transfer application.
- (3)
 - (a)
 - (i) Before the commission may approve the transfer of a retail license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether the transfer of the retail license should be approved.
 - (ii) The department shall forward the information and recommendations described in this Subsection (3)(a) to the commission to aid in the commission's determination.
 - (b) Before approving a transfer, the commission shall:
 - (i) determine that the transferee filed a complete application;
 - (ii) determine that the transferee is eligible to hold the type of retail license that is to be transferred at the premises to which the retail license would be transferred;
 - (iii) determine that the transferee is not delinquent in the payment of an amount described in Subsection 32B-8a-201(3);
 - (iv) determine that the transferee is not disqualified under Section 32B-1-304;
 - (v) consider the locality within which the proposed licensed premises is located, including the factors listed in Section 32B-5-203 for the issuance of a retail license;
 - (vi) consider the transferee's ability to manage and operate the retail license to be transferred, including the factors listed in Section 32B-5-203 for the issuance of a retail license;
 - (vii) consider the nature or type of retail licensee operation of the transferee, including the factors listed in Section 32B-5-203 for the issuance of a retail license;
 - (viii) if the transfer involves consideration, determine that the transferee and transferor have complied with Part 4, Protection of Creditors; and
 - (ix) consider any other factor the commission considers necessary.
- (4)

- (a) Except as provided in Subsection (4)(b), the commission may not approve the transfer of a retail license to premises that do not meet the proximity requirements of Section 32B-1-202.
- (b) If after a transfer of a retail license the transferee operates the same type of retail license at the same location as did the transferor, the commission may waive or vary the proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the transfer under the same circumstances that the commission may waive or vary the proximity requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a retail license.

Amended by Chapter 82, 2016 General Session

32B-8a-303 Transfer fees.

- (1) Except as otherwise provided in this section, the department shall charge the following transfer fees:
 - (a) for a transfer of a retail license from a retail licensee to another person, the transfer fee equals the initial license fee amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being transferred;
 - (b) for the transfer of a retail license from one premises to another premises of the same retail licensee, the transfer fee equals the renewal fee amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being transferred;
 - (c) subject to Subsections (1)(d) and (2), for a transfer described in Section 32B-8a-202, the transfer fee equals the renewal fee amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being transferred;
 - (d) for a transfer of a retail license to include the parent or adult child of a retail licensee, when no consideration is given for the transfer, the transfer fee is one-half of the amount described in Subsection (1)(a); and
 - (e) for one of the following transfers, the transfer fee is one-half of the amount described in Subsection (1)(a):
 - (i) a retail license of one spouse to the other spouse when the transfer application is made before the entry of a final decree of divorce;
 - (ii) a retail license of a deceased retail licensee to:
 - (A) the one or more surviving partners of the deceased retail licensee;
 - (B) the executor, administrator, or conservator of the estate of the deceased retail licensee; or
 - (C) the surviving spouse of the deceased retail licensee, if the deceased retail licensee leaves no estate to be administered;
 - (iii) a retail license of an incompetent person or conservatee by or to the conservator or guardian for the incompetent person or conservatee who is the retail licensee;
 - (iv) a retail license of a debtor in a bankruptcy case by or to the trustee of a bankrupt estate of the retail licensee;
 - (v) a retail license of a person for whose estate a receiver is appointed may be transferred by or to a receiver of the estate of the retail licensee;
 - (vi) a retail license of an assignor for the benefit of creditors by or to an assignee for the benefit of creditors of a licensee with the consent of the assignor;
 - (vii) a retail license transferred to a revocable living trust if the retail licensee is the trustee of the revocable living trust;
 - (viii) a retail license transferred between partners when no new partner is being licensed;
 - (ix) a retail license transferred between corporations whose outstanding shares of stock are owned by the same individuals;

- (x) upon compliance with Section 32B-8a-202, a retail license to a corporation whose entire stock is owned by:
 - (A) the transferor; or
 - (B) the spouse of the transferor;
 - (xi) upon compliance with Section 32B-8a-202, a retail license to a limited liability company whose entire membership consists of:
 - (A) the transferor; or
 - (B) the spouse of the transferor; or
 - (xii) a retail license transferred from a corporation to a person who owns, or whose spouse owns, the entire stock of the corporation.
- (2) If there are multiple and simultaneous transfers of retail licenses under Section 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the retail licenses being transferred.
- (3)
- (a) Except as provided in Subsection (3)(b), a transfer fee required under Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)(xii) if the subsequent transfer is of 51% of the stock in a corporation to which a retail license is transferred by a retail licensee or the spouse of a retail licensee.
 - (b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's adult child or adult grandchild, the transfer fee is one-half of the amount described in Subsection (1)(a).
- (4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.

Revisor instructions Chapter 349, 2013 General Session
Amended by Chapter 365, 2012 General Session